

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15887 of 2010

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VISHNUBHAI N PAREKH - Petitioner(s)

Versus

PRINCIPAL SECRETARY TO GOVERNOR & 2 - Respondent(s)

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Appearance :

MR DEVESH A BHATT for Petitioner(s) : 1,

None for Respondent(s) : 1, 3,

**MS MAITHILI MEHTA, ASST.GOVERNMENT PLEADER for
Respondent(s) : 2,**

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CORAM :

HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/12/2010

ORAL ORDER

1. The petitioner has challenged an order dated 30.11.2009 passed by His Excellency the Governor of Gujarat as also subsequent order dated 15.6.2010 by which the petitioner's review against the order dated 30.11.2009 came to be dismissed.

2. Facts are as follows:-

2.1 The petitioner had moved application for disclosure of certain information under the Right to Information Act before the Public Information Officer, Kalol Police Station. The case of the petitioner was that certain factory premises contained hazardous chemicals and there was every possibility of an accident resulting into considerable loss of life and property. Since, the Public Information Officer did not supply the information within time permitted under the Act though according to the petitioner it was an urgent issue, the petitioner approached Chief Information Commissioner under Section 18 of the Right to Information Act.

3. It is the case of the petitioner that the said authority, respondent No.3 herein, which passed order in favour of the petitioner, did not ensure that such order be complied. The petitioner, therefore, requested to initiate the contempt proceedings against Public Information Officer and refer the matter to the High Court to proceed under the Contempt of Courts Act. Respondent No.3 did not accede to the request of the petitioner. According to the petitioner, the stand of the respondent No.3 amounts to contempt of his own Court. The petitioner, therefore, approached His Excellency the Governor of Gujarat seeking permission for prosecution of respondent No.3 under Section 197 of the Criminal Procedure Code. The said application came to be dismissed by impugned order dated 30.11.2009. Not satisfied, the petitioner preferred review application, which also came to be turned down by subsequent order dated 15.6.2010. He has, therefore, approached this Court assailing the above mentioned orders.

4. First and foremost, I am of the opinion that the Chief Information Officer is not a Court for the purpose of Contempt of Courts Act. Section 18 of the Right to Information Act cloths the said authorities with certain powers of a Court. In Sub-Section (3) of Section 18, it is provided as under:-

"18(3) The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any Court or office;"

Section 20 of the Right to Information Act pertains to penalties, which can be imposed when it is found that the Public Information Officer or the Public Information Officer has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under Sub-Section (1) of Section 7 or malafide denied request for information or knowingly given incorrect, incomplete or misleading information or destroyed information, which was the subject matter of the request or obstructed in any manner in furnishing information.

5. It can thus be seen that all acts or omissions connected with information which is mala fide withheld or information supplied is incorrect or incomplete or misleading, are dealt with under Section 20 by making such action penal. In this context, if one peruses Section 18, it clearly emerges that Information Commission is entrusted with the powers of Civil Court under the Code of Civil Procedure, 1908 for specified purposes such as summoning and enforcing attendance of persons and to compel them to give evidence, requiring the discovery and inspection of documents, receiving evidence on affidavit, requisitioning any public record or copies for issuing summons for examination of witnesses or documents. Such powers cannot be construed as converting the said authority into a Court for all purposes much less for the purpose of Contempt of Courts Act.

6. There was, therefore, no question of respondent No.3 committing contempt of his own Court. Even otherwise, by refusing to initiate Contempt of Court and referring the same to the High Court, he could not be said to have committed any contempt. The application of the petitioner under Section 197 of the Criminal Procedure Code, therefore, was without any substance and was rightly dismissed by His Excellency the Governor. The reasons or non-reasons for rejecting the review, therefore, are not relevant for the present petition. The petition is, therefore, dismissed.

(Akil Kureshi, J.)

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